

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

JAMES E. SPURGEON,)	
individually and on behalf of behalf)	
of all others similarly situated,)	
)	
Plaintiff,)	
)	Case No. 06-cv-0925-MJR
vs.)	and
)	Case No. 06-cv-0983-MJR
PACIFIC LIFE INS. CO.,)	
)	
Defendant.)	

ORDER AND REVISED BRIEFING SCHEDULE
FOLLOWING STATUS CONFERENCE

REAGAN, District Judge:

At the January 12, 2007 in-Court status conference, the undersigned Judge set new briefing deadlines for several pending motions (delineated below) and found that the proper caption for *both* of these case numbers is *James Spurgeon, individually and on behalf of all others similarly situated, vs. Pacific Life Ins. Co.* Counsel are hereby **INSTRUCTED** to use this caption on all further pleadings in Case No. 06-0925 and Case No. 06-0983. Until further Order of Court (e.g., if a later amendment of the complaint alters the parties), the Clerk's Office is **DIRECTED** to **STRIKE** any pleadings filed after January 12, 2007 in either of these cases which contains any other caption.

Having heard extensive arguments, the Court **TAKES UNDER ADVISEMENT** Pacific Life's November 30, 2006 motion to consolidate (Doc. 3 in Case 06-0983). That motion was filed at a time when these two cases were pending before two different

District Judges.¹ The motion sought consolidation of the two cases into the earlier-filed removal, following the standard practice of this District to consolidate into the first-filed or first-removed case, a policy primarily designed to discourage judge-shopping by litigants.²

By December 6, 2006, both cases had been transferred to the undersigned Judge (who handled the original *Spurgeon* case in this Court, Case No. 04-0355). As indicated in the pleadings and at the January 12th status conference, Plaintiff does not not oppose Defendant's motion to consolidate these two cases.³

Although the briefs are "closed" on this motion (Doc. 3 in Case 06-0925), the Court **will permit** counsel - by separate briefs labeled as "Supplemental Memo Regarding Consolidation," no longer than 5 pages, filed on or before **January 30, 2007** - to set forth any objection they have to the Court consolidating the two cases into the *higher*-numbered case (Case No. 06-0983, which was removed on November 28, 2006).

Additionally, counsel may (but are not required to) file briefs addressing the arguments and caselaw presented at the status conference. If such briefs are filed, they

¹ When the motion to consolidate was filed, Case No. 06-0925 was assigned to Judge J. Phil Gilbert, and Case No. 06-0983 was assigned to Chief Judge G. Patrick Murphy.

² No such concern exists here, as both cases (06-0925 and 06-0983) are pending before a single District Judge.

³ The Court raised at the January 12th conference (and the parties, to differing degrees, opposed) the idea of *striking* the removal notice in Case No. 06-0925 as prematurely-filed (i.e., filed prior to the Seventh Circuit's November 14, 2006 mandate herein).

each should be no longer than 10 pages, labeled "Memorandum Regarding Issues Covered at 1/12/07 Status Conference," and filed on or before **January 30, 2007** (identical document/copy filed in both cases).

This leaves the motions to dismiss and remand, filed in both cases.

The **REVISED SCHEDULE** for those briefs is as follows:

Case No. 06-0925

Doc. 3 (Defendant's Motion to Dismiss) --
Response due 1/30/07. Reply due 2/12/07.

Doc. 11 (Plaintiff's Motion to Amend/Correct Deficiencies) --
Plaintiff **GRANTED LEAVE** to file a reply brief (no longer than 5 pages) on or before 1/19/2007.

Case No. 06-0983

Doc. 4 (Defendant's Motion to Dismiss) --
Response due 1/30/07. Reply due 2/12/07.

Docs. 10 & 13 (Plaintiff's Remand Motions) --
Response due 1/30/07. Reply due 2/12/07. [Note: A single response may be filed to both Docs. 10 and 13. Similarly, a single reply may be filed to both Docs. 10 and 13.]

IT IS SO ORDERED.

DATED this 12th day of January 2007.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge